

IN THE SENATE OF THE UNITED STATES.

APRIL 2, 1869.

AMENDMENTS

Reported by Mr. TRUMBULL, from the Committee on the Judiciary, to the amendment of the House of Representatives to the bill (S. 44) to amend the judicial system of the United States, viz: Strike out the parts in [brackets] and insert the parts printed in *Italics*.

IN THE HOUSE OF REPRESENTATIVES.

MARCH 29, 1869.

Resolved, That the bill from the Senate (No. 44) entitled "An act to amend the judicial system of the United States" do pass with the following

AMENDMENT.

Strike out all after the enacting clause and insert the following:

1 That the Supreme Court of the United States shall herer-
2 after consist of the Chief Justice of the United States and eight
3 acting associate justices, any six of whom shall constitute a
4 quorum, and [of such justices of said court as shall have been
5 excused and retired from active duty under the provisions of
6 this act. For] *for* the purposes of this act there shall be
7 appointed an additional associate justice of said court.

1 SEC. 2. *And be it further enacted*, That for each of the
2 nine existing judicial circuits there shall be appointed a cir-

3 cuit judge, who shall reside in his circuit, and shall possess
 4 the same power and jurisdiction therein as the justice of the
 5 Supreme Court allotted to the circuit. The circuit courts in
 6 each circuit shall be held by the justice of the Supreme Court
 7 allotted to the circuit, or by the circuit judge of the circuit, or
 8 by the district judge of the district sitting alone, or by the jus-
 9 tice of the Supreme Court and circuit judge sitting together,
 10 in which case the justice of the Supreme Court shall preside,
 11 or in the absence of either of them by the other (who shall
 12 preside) and the district judge. And such courts may be held
 13 at the same time in the different districts of the same circuit,
 14 and [more than one such court may be held at the same time
 15 in the same district] *cases may be heard and tried by each*
 16 *of the judges holding any such court sitting apart* by direc-
 17 tion of the presiding justice or judge, who shall designate the
 18 business to be done [in each: *Provided*, That no officers shall
 19 be allowed fees for attendance upon or services in more than
 20 one of said courts at the same time.] The circuit judges shall
 21 each receive an annual salary of five thousand dollars.

1 SEC. 3. *And be it further enacted*, That nothing in this
 2 act shall affect the powers of the justices of the Supreme
 3 Court as judges of the circuit courts, except in the appoint-
 4 ment of clerks of the circuit courts, which in each circuit shall
 5 be appointed by the circuit judge of that circuit, and the clerks
 6 of the district courts shall be appointed by the judges thereof

7 respectively: *Provided*, That the present clerks of said court
8 shall continue in office till other appointments be made in
9 their place or they be otherwise removed.

1 SEC. 4. *And be it further enacted*, That it shall be the
2 duty of the Chief Justice, and of each justice of the Supreme
3 Court [who shall not have been excused and retired under the
4 provisions of this act,] to attend at least one term of the cir-
5 cuit court in each district of his circuit during every period of
6 two years.

1 SEC. 5. *And be it further enacted*, [That any judge
2 of any court of the United States who is now seventy
3 years of age, and any judge thereof who shall hereafter
4 become seventy years of age, and who shall have served
5 at least ten years as such judge may, upon his filing
6 with the President a certificate of that fact, be excused
7 and retired from active service as such judge; and there-
8 after he shall, during the time he shall continue to hold
9 said office, be entitled to receive from the United States the
10 same salary that he was by law entitled to at the time of filing
11 his certificate: *Provided*, That if any judge who shall have
12 attained the aforesaid age shall be incompetent by reason of
13 disease or infirmity to make and file such certificate, the facts
14 of his age and incompetency may be proved by satisfactory
15 evidence before any justice of the Supreme Court, and upon
16 such justice filing his certificate of such facts with the Presi-

17 dent, the said judge shall thereupon be excused and retired
 18 with like effect as upon his own certificate.] *That any judge*
 19 *of any court of the United States who shall, after having*
 20 *attained to the age of seventy years, resign his office shall*
 21 *thereafter, during the residue of his natural life, receive the*
 22 *the same salary which was by law payable to him at the time*
 23 *of his resignation.*

1 SEC. 6. *And be it further enacted,* [That within six months
 2 after the filing with the President of either of the certificates
 3 mentioned in section five of this act, or if any judge of any
 4 of the courts of the United States whose age now exceeds
 5 seventy years, or who shall hereafter arrive at the age of sev-
 6 enty years, shall for one year after the passage of this act, or
 7 after arriving at the age of seventy years, continue to hold his
 8 office without filing such certificate, it shall, in either of such
 9 cases, be the duty of the President to nominate and appoint,
 10 by and with the advice and consent of the Senate, an addi-
 11 tional judge for the same court, who shall have the same
 12 power, and perform the same duties, and receive the same
 13 compensation as the judge then acting in such court, or who
 14 shall be retired and excused from so acting, and shall in con-
 15 nection with or in the absence of his senior associate, hold the
 16 courts prescribed by law for said senior or retired judge.
 17 And upon the decease of said senior, associate, or retired
 18 judge, or upon his ceasing for any cause to hold said office,

19 the said additional judge appointed under the provisions of
20 this act shall be and become the judge of such court.] *That*
21 *this act shall take effect on the first Monday of December,*
22 *eighteen hundred and sixty-nine.*

Attest: EDWARD McPHERSON, *Clerk.*

By CLINTON LLOYD, *Chief Clerk.*